IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 24TH AUGUST 2007 / 2ND BHADRA 1929

Bail Appl..No. 5183 of 2007()

CRIME NO.401/07 OF KOTTAYAM EAST POLICE STATION.

PETITIONERS/ACCUSED:

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1. M.J. SHAJAHAN, AGED 42 YEARS,
   S/O. P.JEELANI, MANIYANKULAM, THIRUVATHUKKAL P.O.,
   KOTTAYAM DISTRICT.

2. ANILKUMAR, S/O.M.K.SREEDHARAN PILLAI,
   PANCHAMI, JAWAHAR ROAD, NEAR GANDHI SQUARE,
   POONITHURA P.O., ERNAKULAM DISTRICT.

BY ADV. SRI.JOBI JOSE KONDODY

RESPONDENTS: STATE:

STATE OF KERALA,
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
KOTTAYAM EAST POLICE STATION, KOTTAYAM DISTRICT
THROUGH THE PUBLIC PROSECUTOR,HIGH COURT OF KERALA
ERNAKULAM.

BY P.P. SRI.JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 24/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 5183 OF 2007

Dated this the 24th day of August, 2007

ORDER

Application for anticipatory bail. The petitioners are accused 1 and 2. They face allegations under Secs.406 and 420 of the IPC. The crux of the allegations against the petitioners is that they received an amount of Rs.6 lakhs in two instalments of Rs.2 lakhs and Rs.4 lakhs respectively from the de facto complainant on the promise that he shall get huge returns. Returns were not given. The principal amount was also not returned. The de facto complainant alleges that the petitioners had fraudulently deceived him. A crime has been registered. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the allegations are totally false. The allegations are raised with vexatious intent. Even accepting all the allegations,

there is no element of the criminal offence of cheating, urges the learned counsel for the petitioners.

3. The learned Public Prosecutor does not oppose the said prayer and in the facts and circumstances of this case, I am satisfied that anticipatory bail can be granted to the petitioners.

4. In the result, this petition is allowed. Following directions are issued under Sec.438 of the Cr.P.C:

(i) The petitioners shall appear before the learned Magistrate having jurisdiction at 11 a.m. on 4/9/07. They shall be released on regular bail on their executing bonds for Rs.25,000/- each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 5/9/07 and 6/9/07 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of one month. Subsequently, they shall so make themselves available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so.

(iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to

arrest the petitioners and deal with them in accordance with law as if these directions were not issued at all;

(iv) If the petitioners were arrested prior to their surrender on 4/9/07 as directed in clause (i) above, they shall be released on their executing bonds for Rs.25,000/- each without any sureties undertaking to appear before the learned Magistrate on 4/9/07.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge